

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

OP.No. 20842 of 2001(F)

PETITIONERS:

1. **BALAKRISHNA MENON.M.V., ATTENDER/WATCHER
KERALA STATE CONSTRUCTION CORPORATION LTD.,
OORAKAM.**
2. **C.K.MOHANDAS, ATTENDER/WATCHER,
KERALA STATE CONSTRUCTION CORPORATION
LTD., ERNAKULAM.**
3. **T.M.HARIDAS, ATTENDER/ WATCHER,
KERALA STATE CONSTRUCTION CORPORATION LTD.,
C.E.P.2, SITE KAKKANAD, ERNAKULAM.**
4. **A.PRABHAKARAN, ATTENDER/ WATCHER,
KERALA STATE CONSTRUCTION CORPORATION LTD.,
CHAVAKKAD.**
5. **K.T.VELAYUDHAN, ATENDER/WATCHER,
KERALA STATE CONSTRUCTION CORPORATION LTD.,
NAVODAYA VIDYALAYA SITE,
MALAMPUZHA.**
6. **C.L.JOSE, ATTENDER/ WATCHER,
KERALA STATE CONSTRUCTION CORPORATION LTD.,
CHAVAKKAD.**
7. **K.S.SATHEESAN SITE ASSISTANT,
KERALA STATE CONSTRUCTION CORPORATION LTD.,
BRIDGE SITE, MAYANNUR.**

BY ADV. SRI.P.CHANDRASEKHAR

OP. NO.20842/2001

RESPONDENTS:

- 1. THE STATE OF KERALA,
REP.BY CHIEF SECRETARY,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.**
- 2. THE KERALA STATE CONSTRUCTION CORPORATION LTD.,
REP.BY ITS MANAGING DIRECTOR,
CARMEL BUILDING, BANERJEE ROAD,
ERNAKULAM, KOCHI 682 018.**

**BY GOVERNMENT PLEADER SMT.N.SUDHA
SRI.M.V.THAMBAN**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP. NO.20842/2001

ORDER ON CMP. NOS.33842/01, CMP. 2098/02 IN OP. 20842/2001

DISMISSED

27.09.2007

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT IN OP.29267/99 DT. 28.9.2000 ISSUED BY THIS HON'BLE COURT.

EXT.P2:- COPY OF THE COUNTER AFFIDAVIT IN OP. 29267/99 FILED BY THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE ORDER NO.CC/R-12/89/2049 DT. 24.8.2000 ISSUED BY THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE G.O.NO.(RT) 1185/2000/PWD DT. 5.12.2000 ISSUED BY THE 1ST RESPONDENT.

EXT.P5:- COPY OF THE ORDER NO.CC/R-12/89/7770 DT. 13.10.99 BY THE 2ND RESPONDENT.

/TTRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.20842 of 2001-F

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Dated this the 27th day of September, 2007.

JUDGMENT

1.The petitioners moved this Court by filing O.P.29267/1999 essentially requiring the Kerala State Construction Corporation Limited, a Government company, to comply with its decision regarding benefits to be extended to the petitioners, who are daily wage employees. This Court issued Ext.P1 judgment taking the view that that could be had only with the concurrence of the Government. Following that, the impugned Ext.P4 has been issued, whereby the Government have refused to approve the sanction of the relevant resolution of the second respondent. The stand taken by the Government in Ext.P4 is that time scale of pay was granted to contract and daily wage employees who were working against

sanctioned posts on the basis of the combined seniority list and that it is impermissible to grant such relief to persons who are on contract/daily wages beyond the sanctioned posts. The Government, therefore, found it unable to concur with the decision of the second respondent company to extend the benefit of time scale to the employees remaining outside the purview of the sanctioned posts.

2. In opposition to this writ petition, the Government have also filed a counter affidavit pointing out, among other things, that the possibility of extending such benefit is just not there. Petitioners are admittedly persons who are rated/contract employees. They do not specifically impugn the finding of the Government on the basis of the report of the second respondent that the benefit of equalization with like employees has been extended to those who are daily wage/contract appointees who are working against the sanctioned posts. Under such circumstances, I find no

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jurisdictional error or legal infirmity in Ext.P4 order. The writ petition fails. Dismissed.

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

Sha/-

OP20842/2001

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.20842 of 2001-F

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JUDGMENT

Dated: 27th September, 2007.